Before the **FEDERAL COMMUNICATIONS COMMISSION**

Washington, D.C. 20554

In the Matter of)	
)	
Federal-State Joint Board on) CC Docket No. 9	96-45
Universal Service)	
) DA 03-3876	
Petition of ALLTEL Communications, Inc.)	
for Consent to Redefine the Service Areas of)	
Rural Telephone Companies in the State of)	
Wisconsin)	
)	

REPLY COMMENTS OF ALLTEL COMMUNICATIONS, INC.

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ALLTEL Communications, Inc., on behalf of itself and its affiliated partnerships

ALLTEL Wireless of Wisconsin RSA #1, LLC and ALLTEL Wireless of Wisconsin #7, LLC

(collectively, "ALLTEL"), pursuant to the Commission's public notice, replies to comments

filed by CenturyTel, Inc. ("CenturyTel") and the Incumbent Local Exchange Carriers Division of
the Wisconsin State Telecommunications Association ("WSTA") in opposition to ALLTEL's

petition for Commission consent to redefine the service areas of certain rural telephone

¹ FCC Public Notice, *The Wireline Competition Bureau Seeks Comment on ALLTEL's Petition to Redefine Rural Telephone Company Service Areas in the State of Wisconsin*, CC Docket No. 96-45, DA 03-3876 (Dec. 4, 2003).

² Comments of CenturyTel, Inc., Federal-State Joint Board on Universal Service, Petition of ALLTEL Communications, Inc. for Consent to Redefine the Service Areas of Rural Telephone Companies in the State of Wisconsin, CC Docket No. 96-45, DA 03-3876 (Dec. 19, 2003) ("CenturyTel Comments"); Comments of the Incumbent Local Exchange Carriers Division of the Wisconsin State Telecommunications Association, Federal-State Joint Board on Universal Service, Petition of ALLTEL Communications, Inc. for Consent to Redefine the Service Areas of Rural Telephone Companies in the State of Wisconsin, CC Docket No. 96-45, DA 03-3876 (Dec. 19, 2003) ("WSTA Comments").

companies in Wisconsin on a wire center-by-wire center basis (the "Petition").³ The opposing comments (collectively, "Oppositions") provide no compelling reason to deny or delay consideration of ALLTEL's Petition. Accordingly, the Commission should expeditiously grant the Petition.

I. INTRODUCTION AND SUMMARY.

The ALLTEL family of companies provides diversified telecommunications services, including local exchange service, interexchange service and wireless services. ALLTEL is currently both a recipient of universal service support as a local exchange carrier ("LEC") and a contributor to universal service funding as an interexchange carrier and wireless carrier.

Consequently, ALLTEL has a number of perspectives on the complex funding needs of carriers serving high-cost areas. ALLTEL affiliates encompass both rural and non-rural wireline incumbent LECs ("ILECs"), as well as its wireless service operators. In view of this broadbased experience, ALLTEL, after full consideration of all aspects of the impact of seeking designation as an eligible telecommunications carrier ("ETC") on universal service support and competition, concluded that the public interest would be well served if it were to be designated an ETC in Wisconsin.

Pursuant to the Commission's ETC procedures and policies, the Wisconsin Public Service Commission ("WPSC") designated ALLTEL as an ETC throughout its cellular service area in Wisconsin and concluded that the study areas of the rural Wisconsin ILECs (the "Rural ILECs") in which ALLTEL provides cellular service should be redefined on a wire center-by-

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³ Petition of ALLTEL Communications, Inc. for Consent to Redefine the Service Areas of Rural Telephone Companies in the State of Wisconsin, CC Docket No. 96-45 (filed Nov. 21, 2003, amended Nov. 26, 2003) (the "Petition").

wire center basis ("WPSC Decision").⁴ The Petition seeks this Commission's concurrence in the WPSC's service area redefinition decision.

CenturyTel and WSTA (of which all of the Rural ILECs are members) challenge

ALLTEL's Petition, couching their Oppositions as selfless attempts to protect the public interest.

The Oppositions, however, distort the objectives and purpose of the universal service support program and the pro-competitive policies established in the Communications Act of 1934, as amended ("the Act"). CenturyTel and WSTA ignore the public interest benefits that a redefinition of the Rural ILECs' service areas would create. ALLTEL demonstrated that the requested service area redefinition, in conjunction with its ETC designation, would encourage competition in historically non-competitive markets, extend universal service support to rural Wisconsin consumers, improve consumers' quality of life, increase consumer choice, and encourage greater economic, technological, and infrastructure development. Furthermore, because ALLTEL commits to providing service throughout its licensed service area, redefining the Rural ILECs' service areas will minimize the possibility of deliberate or inadvertent cream skimming. The relief sought here thus would level the competitive playing field.

The Oppositions also ignore well established precedent governing ETC-related petitions.

The Commission is committed to a speedy resolution of redefinition petitions such as

ALLTEL's, so that the benefits derived from redefining the service areas of rural telephone

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⁴ Application of ALLTEL Communications, Inc., ALLTEL Wireless of Wisconsin RSA #1, LLC and ALLTEL Wireless of Wisconsin RSA #7, LLC for Designation as an Eligible Telecommunications Carrier in Wisconsin, Docket No. 7131-TI-101 (Sept. 30, 2003) at 10-12 ("WPSC Decision"). A copy of the WPSC Decision was attached to the Petition as Exhibit A. The Rural ILECs are Amery Telecom Inc., CenturyTel of Central Wisconsin, CenturyTel of Northern Wisconsin, CenturyTel of Northwest Wisconsin, CenturyTel of the Midwest-Kendall, CenturyTel of the Midwest-Wisconsin, Chequamegon Telephone Cooperative, Chibardun Telephone Cooperative, Frontier Communications of Wisconsin, Midway Telephone Company –

companies are not unduly delayed. In an attempt to further delay ALLTEL's receipt of high-cost support, CenturyTel and WSTA raise multiple collateral arguments that are relevant only to the issue of ALLTEL's ETC designation and which have been rejected in the WPSC Decision. The Commission should not allow collateral arguments to distract it from its commitment to rule promptly on redefinition petitions. The Commission has previously granted all of the redefinition petitions on which it has ruled, and CenturyTel and WSTA fail to demonstrate why the Commission should treat ALLTEL's Petition any differently. Accordingly, ALLTEL urges that the Petition be granted expeditiously.

II. STAYING CONSIDERATION OF ALLTEL'S PETITION UNTIL THE JOINT BOARD HAS CONCLUDED ITS REVIEW OF THE ETC DESIGNATION PROCESS WOULD DISSERVE THE PUBLIC INTEREST.

CenturyTel's And WSTA's Procedural Arguments Have Been Rejected Previously.

The Oppositions argue that any decision concerning the Petition must await the recommendations of the Federal-State Joint Board on universal service ("Joint Board"), and Commission resolution of the issues raised in the pending Joint Board deliberations, concerning ETC designation procedures and the distribution of universal service support to ETCs ("Joint Board Review"). 5 To the extent that ETC designation precedents have any relevance at all to ALLTEL's Petition, however, they firmly reject the opponents' procedural arguments. The *Joint* Board Review addresses issues of general future applicability that are outside the scope of the

Wisconsin, Mt. Vernon Telephone Company, Stockbridge & Sherwood Telephone, Telephone USA of Wisconsin LLC, and West Wisconsin Telecom Cooperative.

⁵ See Federal-State Joint Board on Universal Service, Order, 17 FCC Rcd 22642 (2002) ("Joint Board ETC Order"); FCC Public Notice, Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support and the ETC designation Process, 18 FCC Rcd 1941 (2003) ("Joint Board ETC Notice") (collectively, "Joint Board Review").

instant proceeding. Commission precedents demonstrate that the prospect of future changes cannot be allowed to delay Commission consideration of ALLTEL's narrow request to redefine the service areas of the Rural ILECs under *today's* existing rules.

The Commission has repeatedly refused to suspend or stay proceedings concerning ETC matters pending resolution of the ETC and universal service policy issues being considered in the *Joint Board Review*. For example, in *Cellular South* and *RCC Holdings*, the Commission concluded that concerns raised by commenters that are generally applicable to the universal service mechanism "are beyond the scope of this Order, which designates a particular carrier as an ETC." Similarly, the Commission has determined that suspension of an application until the Joint Board issued its recommendation would "unnecessarily delay resolution of this matter." The Commission also has recognized that "excessive delay in the designation of competing providers may hinder the development of competition and the availability of service in many high-cost areas."

Neither CenturyTel nor WSTA has demonstrated any persuasive reason for the Commission to revisit its precedent. Furthermore, the Commission has expressed its intent to

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⁶ Federal-State Joint Board on Universal Service, Cellular South License, Inc., Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama, 17 FCC Rcd 24393, 24405-06 (WCB 2002) ("Cellular South").

⁷ Federal-State Joint Board on Universal Service, RCC Holdings, Inc., Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama, 17 FCC Rcd 23532, 23535 n.27 ("RCC Holdings") (citing Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved Areas and Underserved Areas, Including Tribal and Insular Areas, 15 FCC Rcd 12208, 12265 (2000) ("Promoting Deployment")).

⁸ Promoting Deployment, 15 FCC Rcd at 12255-56.

"complete consideration of any proposed definition of a service area promptly." The Commission should stand by its commitment to resolve redefinition requests expeditiously by rejecting CenturyTel's and WSTA's request to stay consideration of the Petition.

Moreover, Commission rules and policies are continuously examined and improved to reflect changes in the market. In fact, reexamination is statutorily required for all regulations issued under the Telecommunications Act of 1996 on a biennial basis.¹⁰ If the Commission were to follow CenturyTel's and WSTA's logic that all proceedings should be stayed when rules or policies affecting those proceedings are subject to a pending rulemaking or other review, few if any decisions would ever be reached.

Furthermore, the vast majority of the *Joint Board Review* concerns issues unrelated to redefining the service areas of rural carriers. The Joint Board is considering how "the level of disaggregation of support" should impact requests for ETC status, ¹¹ but there is no indication that the Joint Board will recommend that the Commission modify its current policies and standards for redefining the service areas of rural carriers. In light of these considerations and the uncertainty attending any contentious policy rulemaking, there is even less reason to await the outcome of the *Joint Board Review* before acting on this Petition.

Finally, even if the *Joint Board Review* does modify the distribution of universal service funding to wireless ETCs and how service areas of ETCs and ILECs are defined, any changes will be applied to ALLTEL and all other carriers at that time. It is axiomatic that any new

⁹ Federal-State Joint Board on Universal Service, Report and Order, 12 FCC Rcd 8776, 8881 (1997) ("Universal Service Order").

¹⁰ 47 U.S.C. § 161.

¹¹ See Joint Board ETC Order, 17 FCC Rcd at 22647; Joint Board ETC Notice, 18 FCC Rcd at 1955-56.

regulations issued in a rulemaking proceeding are applied across the board to all participants.

Future modifications to the Commission's universal service support rules accordingly provide no basis to delay a competitive ETC's request to redefine the service areas of rural carriers under existing policies.

B. The Act, Commission Rules, And Joint Board Recommendations Provide The Means To Redefine The Service Areas Of Rural ILECs On A Wire Center Basis.

Section 214(e)(5) of the Act allows the Commission and state agencies to redefine the service areas of rural ILECs on a basis other than their study areas "after taking into account recommendations of [the Joint Board]." WSTA erroneously interprets this language and the prior statements of the Commission and the Joint Board to mean that the Joint Board must consider and issue a separate recommendation for *each* request to redefine the service area of a rural carrier. The Act, however, does not impose such a requirement, and neither the Commission nor the Joint Board has ever made such a pronouncement.

The Commission has repeatedly approved the redefinition of rural carrier service areas on a non-study area basis pursuant to the recommendations set forth by the Joint Board in its *Recommended Decision*.¹³ In each of those cases, the Commission considered the guidelines and concerns expressed in the *Recommended Decision*.¹⁴ As a practical matter, consulting the Joint Board for *each* redefinition petition would subvert the Commission's intent to complete promptly consideration of redefinition petitions. Moreover, requiring the Joint Board to

¹² 47 U.S.C. § 214(e)(5).

¹³ Federal-State Joint Board on Universal Service, Recommended Decision, 12 FCC Rcd 87 (1996) (subsequent history omitted) ("Recommended Decision").

¹⁴ See, e.g., RCC Holdings, 17 FCC Rcd at 23547-48; Cellular South, 17 FCC Rcd at 24397; Petition for Agreement with Designation of Rural Company Eligible Telecommunications Carrier Service Areas, 15 FCC Rcd 9921, 9927-28 (CCB 1999) ("Washington Order").

undertake such a fact specific investigation for each redefinition petition would be overly burdensome on the Joint Board. State agencies are far more familiar with the carriers and rural areas in their states and will conduct their own proceedings concerning redefinition petitions. In this case, the WPSC, which is best positioned to consider ALLTEL's redefinition Petition, after considering the recommendations of the Joint Board, concluded that the Rural ILECs' service areas should be redefined on a wire center basis.

WSTA also mistakenly claims that the Joint Board has recommended that ETC service areas continue to mirror the rural carriers' study areas. ¹⁷ The language cited by WSTA in support of this assertion, however, is taken out of context. Contrary to WSTA's claims, the Joint Board recommended, and the Commission determined, that rural carriers' service areas remain their study areas *unless* those areas are redefined pursuant to Section 214(e) of the Act. ¹⁸ WSTA fails to point out that in the same recommendation, the Joint Board also issued comprehensive guidelines and recommendations to be taken into account when the Commission and states are considering petitions to redefine rural carrier service areas. ¹⁹

Contrary to CenturyTel's assertions, the Commission also has the authority and discretion to grant ALLTEL's Petition without a written order. Pursuant to Section 54.207(c)(3)(ii) of the Commission's rules, if the Commission does not act on a redefinition petition within ninety days

¹⁵ See RCC Holdings, 17 FCC Rcd at 23548-49 ("We find that the Alabama Commission is uniquely qualified to examine the redefinition proposal because of its familiarity with the rural service areas in question.").

¹⁶ WPSC Decision at 9-12.

¹⁷ WSTA Comments at 4-5.

¹⁸Recommended Decision, 12 FCC Rcd at 179-80; *Universal Service Order*, 12 FCC Rcd at 8791-92.

¹⁹ Recommended Decision, 12 FCC Rcd at 179-80.

of the public notice seeking comment on the petition, it will be deemed approved.²⁰ This rule ensures that consideration of a redefinition petition, and the competitive benefits derived therefrom, are not unduly delayed. The Commission has utilized the same procedures for other redefinition petitions (which ordered the service areas of other CenturyTel affiliates to be redefined).²¹ In addition, simply because the Commission does not issue a written decision granting a redefinition petition does not mean that the Commission did not take into consideration the recommendations of the Joint Board and all pleadings filed in response to the petition. If, however, the Commission determines that a written decision in this case is appropriate, it should remain committed to an expeditious resolution of the Petition.

III. REDEFINING THE SERVICE AREAS OF THE RURAL ILECS WILL MINIMIZE CONCERNS THAT ALLTEL WILL ENGAGE IN DELIBERATE OR INADVERTENT "CREAM SKIMMING."

CenturyTel and WSTA assert, without any factual or legal support, that redefining the service areas of the Rural ILECs will allow ALLTEL to pick and choose only the lowest cost wire centers in Wisconsin to serve. They also claim that ALLTEL's Petition cannot be granted because additional time is necessary for the Rural ILECs to determine whether they should also

²⁰ 47 C.F.R. § 54.207(c)(3)(ii).

²¹ See, e.g., Smith Bagley, Inc. Petitions for Agreement to Redefine the Service Areas of Navajo Communications Co., Citizens Communications Co. of the White Mountains, and CenturyTel of the Southwest, Inc. on Tribal Lands within the State of Arizona, 16 FCC Rcd 3558 (WCB 2001) ("Smith Bagley Arizona"); Smith Bagley, Inc. Petitions to Redefine the Service Area of Table Top Telephone Company on Tribal Lands within the State of Arizona, 16 FCC Rcd 7559 (WCB 2001) ("Smith Bagley Table Top"); Smith Bagley, Inc. Petitions to Redefine the Service Area of CenturyTel of the Southwest, Inc. in the State of New Mexico, 17 FCC Rcd 4609 (WCB 2002) ("Smith Bagley New Mexico"). The Commission also has streamlined its application procedures for domestic and international Section 214 authorizations such that applications are automatically granted after a certain period of time unless the applicants are otherwise notified by the Commission.

disaggregate their high-cost support at the wire center level and, if so, to seek the necessary approvals.²²

As ALLTEL explained in its Petition, however, it has committed to provide service throughout its entire licensed service area, and thus, as in prior cases, its inability to completely serve the study areas of some of the Rural ILECs does not raise cream skimming concerns.

ALLTEL is not "picking and choosing" which areas to serve, as CenturyTel and WSTA allege. The Commission previously concluded in *RCC Holdings* and *Cellular South* that similar facts demonstrated that there was little danger of intentional or even inadvertent rural cream skimming. Furthermore, as also indicated in the Petition, some of the Rural ILECs already have filed disaggregation plans. Those Rural ILECs that have not yet filed disaggregation plans have the option of filing such plans so that they can target per-line support below the study area level and prevent wireless carriers from averaging high-cost support across all lines within the rural carriers' study areas. The WPSC, in fact, specifically stated that the Rural ILECs that have not disaggregated and targeted universal service support may do so. The Commission has stated often that disaggregating and targeting high-cost support eliminates any incentive on the part of wireless carriers to cream skim. The service is a province of the part of wireless carriers to cream skim.

²² CenturyTel Comments at 3-5; WSTA Comments at 5-6.

²³ RCC Holdings, 17 FCC Rcd at 23543-44; *Cellular South*, 17 FCC Rcd at 24404-05. *See also Washington Order*, 15 FCC Rcd at 9928 (concluding that redefining rural ILEC service areas in Washington addressed opportunities for cream skimming by competitors).

²⁴ Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Service of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, 16 FCC Rcd 11244, 11302 (2001) ("RTF Order").

²⁵ WPSC Decision at 12.

²⁶ See, e.g., RCC Holdings, 17 FCC Rcd at 23544; Cellular South, 17 FCC Rcd at 24405.

Contrary to CenturyTel's arguments, the Commission need not postpone action on ALLTEL's Petition to provide CenturyTel with time to evaluate whether it should also disaggregate support at the wire center level.²⁷ Although CenturyTel claims that ALLTEL may receive inflated high-cost support if such support is based upon CenturyTel's costs averaged across its study area, CenturyTel previously concluded after "careful analysis" that there was no need to target its support below its study area.²⁸ CenturyTel also fails to provide any evidence that ALLTEL would in fact receive a windfall if CenturyTel did not calculate its costs on a wire center basis.

In any event, CenturyTel has the option of changing its prior decision and disaggregating its support on a wire center basis.²⁹ It does not, however, need to wait until a final decision regarding ALLTEL's Petition is reached before it starts analyzing whether it should disaggregate support at a level other than its study area. It could have (and should have) begun evaluating its costs when ALLTEL filed its request for ETC status and to redefine the service areas of the Rural ILECs with the WPSC in May 2003. Assuming the Commission does not initiate further proceedings regarding ALLTEL's Petition, it will not be deemed granted until at least March 2004, providing CenturyTel and other Rural ILECs with more than an adequate amount of time to decide whether they should target their high-cost support on a wire center basis.

CenturyTel cites with approval the Commission's conclusion in the *RTF Order* that "support should generally be disaggregated and targeted in a manner that the per-line level of

²⁷ CenturyTel Comments at 3-5.

²⁸ *Id.* at 4. CenturyTel's decision not to target high-cost support in Wisconsin suggests that its costs do not differ markedly among wire centers.

²⁹ See 47 C.F.R. § 54.315; WPSC Decision at 12.

support is more closely aligned with the cost of providing service."³⁰ The Commission explained in the *RTF Order* that support can generally be aligned with costs by disaggregating and targeting support "below the study area level."³¹ It also recognized, however, that, notwithstanding the protection against cream skimming afforded by disaggregation, "a carrier may choose not to disaggregate and target support for anti-competitive reasons."³² Given CenturyTel's stated concerns about cream skimming, its opposition to the Petition, in light of its failure to disaggregate, clearly reflects an intent to delay additional competition in Wisconsin as long as possible, contrary to the Commission's stated intent to address such petitions quickly. The Commission should therefore reject CenturyTel's request to delay consideration of ALLTEL's Petition.

IV. REDEFINING THE SERVICE AREAS OF THE RURAL ILECS SERVES THE PUBLIC INTEREST.

A. Fostering Competition In Rural Areas Is An Integral Part Of The Universal Service Support Mechanism.

WSTA takes an unreasonably limited view of the Act and the principles of the universal service support mechanism by asserting that promoting competition is not a primary goal of the support mechanism.³³ WSTA, however, admits that the Act has dual goals of promoting competition and ensuring that all Americans have access to quality and affordable telecommunications services.³⁴ These goals do not work independently of each other.

³⁰ CenturyTel Comments at 5 (quoting *RTF Order*, 16 FCC Rcd at 11303).

³¹ RTF Order, 16 FCC Rcd at 11302.

³² *Id.* at 11303 (citation omitted).

³³ WSTA Comments at 7-8.

³⁴ *Id.* at 7.

Congress adopted Sections 214 and 254 of the Act to ensure that rates for telecommunications services in rural areas are comparable to the less expensive, more affordable rates in urban areas. Competition is another way in which rates for services are kept reasonable. Just as competition in urban areas drives rates down and encourages carriers to continuously improve services and upgrade facilities, competition in rural areas has a similar effect, and designating competitive ETCs in rural areas facilitates such competition. Furthermore, Section 214(e)(2) of the Act specifically allows competitive carriers to be designated as ETCs in rural and non-rural areas. WSTA would have the Commission conclude that no competition can exist in rural or high-cost areas, but ALLTEL and others have shown that this is not the case, and the Commission should recognize that the public interest is best served by competitive markets, regardless of whether they are established in the rural or urban marketplace.

³⁵ 47 U.S.C. §§ 214, 254.

³⁶ See Universal Service Order, 12 FCC Rcd at 8802-03; see also Western Wireless Corp. Petition for Designation as an Eligible Telecommunications Carrier for the Pine Ridge Reservation in South Dakota, 16 FCC Rcd 18133, 18138-39 (2001) ("Western Wireless Pine Ridge") (noting that competition may provide incumbent carriers with the incentive to implement new operating efficiencies, lower rates, and provide better services to customers).

³⁷ 47 U.S.C. § 214(e)(2); see also Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, 11 FCC Rcd 15499, 15506-07 (1996) (subsequent history omitted) ("Local Competition Order") ("The present universal service system is incompatible with the statutory mandate to introduce efficient competition into local markets, because the current system distorts competition in those markets. For example, without universal service reform, facilities-based entrants would be forced to compete against monopoly providers that enjoy not only the technical, economic, and marketing advantage of incumbency, but also subsidies that are provided only to the incumbents.").

³⁸ Assuming WSTA's logic were correct, competition and other market forces would lower rates for telecommunications services in urban areas, encourage carriers to operate more efficiently, and to develop new service offerings. In contrast, none of those competitive benefits would exist in rural areas. Rural ILECs would have no incentive to upgrade facilities, operate more efficiently, or lower costs. Accordingly, urban rates would continue to decrease while rural rates

B. Redefining The Rural ILECs' Service Areas Serves The Public Interest.

ALLTEL demonstrated in the Petition that redefining the Rural ILECs' service areas on a wire center basis serves the public interest. Redefining the Rural ILECs' study areas is necessary in order for ALLTEL to provide ETC-supported services and to receive universal service support for such services.³⁹ Specifically, the public interest is benefited by: (1) increasing competition; (2) increasing consumer choice; (3) benefiting consumers' quality of life; (4) promoting universal service; (5) encouraging greater economic, technology and infrastructure development; (6) promoting efficiency and productivity; and (7) advancing telecommunications services in areas that are economically or racially diverse.⁴⁰ ALLTEL also showed that redefining the Rural ILECs' service areas: (a) will minimize the incentive for ALLTEL to engage in deliberate or inadvertent cream skimming; (b) will not harm or affect the Rural ILECs' status as rural telephone companies; and (c) will not be administratively burdensome for the Rural ILECs.⁴¹

Contrary to CenturyTel's assertions, the WPSC, in concluding that redefining the service areas of the Rural ILECs would serve the public interest, took into account the impact service area redefinition would have on the Rural ILECs. Furthermore, the WPSC recognized that designating ALLTEL as an ETC, which would require a redefinition of the Rural ILECs' service

would stay the same or potentially rise. Rural ILECs would receive additional universal service support as the difference between urban and rural rates grew to ensure that rural customers receive services at rates comparable to urban customers, putting additional pressure on the universal service fund.

³⁹ For example, the WPSC conditioned ALLTEL's ETC designation on the Commission's approval of its redefinition plan. Accordingly, ALLTEL cannot provide toll limitation services for lifeline customers until the service areas of the Rural ILECs are redefined because only carriers designated as ETCs can participate in the Lifeline program.

⁴⁰ Petition at 6-7; WPSC Decision at 8.

⁴¹ Petition at 6-12; WPSC Decision at 8-12.

areas, provides competitive benefits to consumers. As previously noted, competition drives down rates and encourages carriers to develop new services and technologies and to operate more efficiently and effectively.⁴²

According to CenturyTel, there are no competitive benefits to designating ALLTEL as an ETC and redefining the Rural ILECs' service areas because ALLTEL already provides wireless services in Wisconsin. This argument, however, ignores that some ETC-supported services, such as Lifeline, can be provided only by ETCs, and thus remain monopolized by the Rural ILECs. Furthermore, the Rural ILECs have long enjoyed a competitive advantage over all other carriers by receiving universal service subsidies. ALLTEL's designation as an ETC will put it on an equal footing with the Rural ILECs, and it will be able to compete more effectively against them.⁴³ As a result, the public will reap the benefits from that competition.

V. THE COMMISSION SHOULD DISREGARD COLLATERAL ARGUMENTS THAT CONCERN THE DESIGNATION OF ALLTEL AS AN ETC.

CenturyTel and WSTA raise other collateral arguments that are relevant only to the issue of ALLTEL's designation as an ETC. Thus, they are inapplicable to the issue presented in the Petition – *i.e.*, whether the Commission should approve ALLTEL's request to redefine the service areas of the Rural ILECs. The WPSC already has determined that ALLTEL meets the criteria established by the Act and the Commission to be designated as an ETC in its service area in Wisconsin.⁴⁴ The Commission should reject the opponents' arguments that require the Commission to second guess the WPSC's decision to designate ALLTEL as an ETC in Wisconsin.

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⁴² Western Wireless Pine Ridge, 16 FCC Rcd at 18138-39.

⁴³ Local Competition Order, 11 FCC Rcd at 15506-07.

⁴⁴ WPSC Decision at 8-12.

A. ALLTEL Is Not Required To Serve The Rural ILECs' Entire Study Area In Order To Receive High-Cost Universal Service Support.

CenturyTel and WSTA erroneously assert that the service areas of the Rural ILECs need not be redefined because ALLTEL is required to serve the entire study area of each of the Rural ILECs. This argument, however, is not about redefining the Rural ILECs' service areas, but rather is an attempt to mask a challenge to ALLTEL's designation as an ETC in Wisconsin. CenturyTel and WSTA participated in the WPSC's proceeding addressing ALLTEL's ETC application, and raised many of the same arguments set forth in the Oppositions, including the claim that ALLTEL should be required to serve each of the Rural ILECs' entire study areas. Their attempts to block ALLTEL from receiving ETC status in Wisconsin, however, were rejected by the WPSC in the WPSC Decision. Their challenges to that order should be brought in the proper forum, not before this Commission.

Moreover, CenturyTel's and WSTA's argument that ALLTEL could provide service throughout the Rural ILECs' study areas by reselling the wireless and wireline services of other carriers⁴⁷ ignores the Commission's extensive precedent concluding that wireless carriers need not serve the entire study area of a rural ILEC to receive ETC status.⁴⁸ The Commission has

⁴⁵ CenturyTel Comments at 5-6; WSTA Comments at 6-7.

⁴⁶ See, e.g., Joint Comments of CenturyTel and TDS Telecom in Opposition to Wireless ETC Applications and Joint Request for Hearing, Application of ALLTEL Communications, Inc., ALLTEL Wireless of Wisconsin RSA #1, LLC and ALLTEL Wireless of Wisconsin RSA #7, LLC for Designation as an Eligible Telecommunications Carrier in Wisconsin, WPSC Docket No. 7131-TI-101 at 44-46 (filed Sept. 18, 2003).

⁴⁷ CenturyTel Comments at 5-6; WSTA Comments at 6-7.

⁴⁸ See, e.g., Universal Service Order, 12 FCC Rcd at 8879-80; RCC Holdings, 17 FCC Rcd at 23545-49; Cellular South, 17 FCC Rcd at 24404-05; Washington Order, 15 FCC Rcd at 9928; Smith Bagley Arizona, 16 FCC Rcd at 3560-61; Smith Bagley Table Top, 16 FCC Rcd at 7560-61; Smith Bagley New Mexico, 17 FCC Rcd at 4610-11. The Act specifically defines an ETC's service area as the "geographic area established by a State commission... for the purpose of

previously determined that to require competitive ETCs such as wireless carriers to serve the entire study area of a rural ILEC is anti-competitive and not in the public interest. ⁴⁹ As previously noted, ALLTEL will provide those services supported by the universal service mechanism throughout its service area in Wisconsin and is not trying to avoid providing service to certain portions of the Rural ILECs' service areas that may be high-cost or otherwise "undesirable."

Furthermore, one of the underlying goals of the Act and the Commission's rules and policies is to increase facilities-based competition, including rural areas in which high-cost support is available. The Commission has recognized that consumers and the telecommunications market are better and more efficiently served by "increased facilities-based competition among wireless service providers and between wireless providers and other platforms." Such competition "encourage[s] the development of broadband services for all Americans, ... enhance[s] economic opportunities and access for the provision of communications services by designated entities, and enable[s] development of additional and innovative services in rural areas."

To require a competitive ETC to resell the service of another carrier, however, rather than using its own facilities, would undermine the Commission's promotion of facilities-based

determining universal service obligations and support mechanisms." 47 U.S.C. § 214(e)(5). For regions specifically served by rural ILECs, "service area" refers to the incumbents' study areas unless the Commission and states establish a different service area definition. *Id.* Accordingly, Section 214 does not require competitive ETCs to have the same service area as the incumbents.

⁴⁹ RCC Holdings, 17 FCC Rcd at 23547-49; Universal Service Order, 12 FCC Rcd at 8879-80.

⁵⁰ Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, WT Docket No. 00-230, FCC 03-113 (Oct. 6, 2003) (concurring joint statement of Chairman M. Powell and Commissioner K. Martin).

⁵¹ *Id.* at ¶¶ 2, 39.

competition. Moreover, the ETC would have little or no control over the service quality of the underlying carrier. Furthermore, a wireless ETC cannot be forced to become a wireline carrier simply to conform its service area to that of the incumbent wireline carrier. Such a premise is not technologically neutral as it would require a wireless carrier to become a competitive LEC and subject to new state and federal regulatory regimes, even though the wireless carrier already satisfies the established criteria for ETC status in its service area.

В. The Wisconsin PSC Concluded That State ETC Requirements Do Not Apply In This Case Because ALLTEL Does Not Seek State Universal Service Support.

The Commission must not be distracted by CenturyTel's claim that the Petition must be denied because the WPSC did not apply state ETC requirements to ALLTEL's request for ETC status. The WPSC concluded that ALLTEL did not need to meet the separate state requirements for ETC status because it was not seeking high-cost support from the *state* universal service fund.⁵² How state specific rules are applied by the WPSC for *state* funding is solely within the jurisdiction of the WPSC.⁵³ This Commission has no jurisdiction over how states establish. fund, and allocate monies from a state universal service fund. The Petition concerns only whether the Commission agrees with the plan to redefine the Rural ILECs' service areas on a wire center basis. The appropriate forum for any claims about state funding is before the WPSC, which already has addressed and rejected CenturyTel's argument.

⁵² WPSC Decision at 4-6.

⁵³ Contrary to CenturyTel's assertion, applying federal and not state ETC rules to ALLTEL will not provide ALLTEL with a competitive advantage over ILECs because ALLTEL sought only federal universal support and did not seek state universal service support. Unlike ALLTEL, CenturyTel and other ILECs are receiving monies from the state universal service fund. It is therefore appropriate that they, but not ALLTEL, be subject to any state requirements that concern state funds.

VI. CONCLUSION.

The Rural ILECs remain overwhelmingly dominant in the local service markets in their service areas in Wisconsin, assisted by high-cost universal service subsidies to retain their dominance against challenges by competitive wireless ETCs, such as ALLTEL, that contribute to that support. CenturyTel's and WSTA's procedural, policy and factual arguments against the Petition are little more than an attempt to retain their exclusive hold on these high-cost subsidies by denying universal service support to ALLTEL, which threatens their market dominance. Accordingly, the Commission should reject these arguments and expeditiously grant ALLTEL's Petition.

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I, Theresa Rollins, hereby certify that a copy of the foregoing **Reply Comments** has been served this 5th day of January 2004 via electronic mail or First Class U.S. Mail (*) on the following:

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